

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. C 09-4503 SI

Plaintiff,
and

**ORDER CONTINUING HEARING ON
WILD EQUITY'S MOTION TO
INTERVENE AND UNITED STATES'
MOTION TO ENTER AMENDED
CONSENT DECREE; AND ORDERING
FURTHER BRIEFING**

COMMUNITIES FOR A BETTER
ENVIRONMENT,

Intervenor-Plaintiff,

v.

PACIFIC GAS & ELECTRIC,

Defendant.

There are several motions scheduled for a hearing on January 21, 2011. The Air District's motion to dismiss CBE's amended complaint will remain on calendar on January 21, 2011.


The Court has reviewed the briefs on Wild Equity Institute's motion to intervene, and finds that further briefing is warranted. The Court finds that serious questions have been raised as to the timeliness of Wild Equity's motion to intervene, and the Court is not persuaded by Wild Equity's contention that it may intervene as of right pursuant to the Clean Air Act. However, the parties' papers did not thoroughly address the question of whether the proposed consent decree constitutes an "agency action" that triggers the consultation requirements of the Endangered Species Act.

Accordingly, the Court continues the January 21, 2011 hearing on Wild Equity's motion and the United States' motion to enter the amended consent decree to **February 25, 2011 at 9:00 am**. The United States, PG&E and Wild Equity shall submit simultaneous supplemental briefs on the question of whether the proposed consent decree is an "agency action" under the ESA by **February 4, 2011**, and

1 simultaneous reply briefs by **February 11, 2011.**

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3 **IT IS SO ORDERED.**

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5 Dated: January 19, 2011



SUSAN ILLSTON
United States District Judge